April 2, 2019

Ms. Monet Vela
Office of Environmental Health Hazard Assessment
P.O. Box. 4010
Sacramento, CA 95812-4010

Submitted electronically via oehha.ca.gov/comments

Re: **Proposed Adoption of New Section Under Article 7 No Significant Risk Levels, Section 25704 Exposures to Listed Chemicals in Coffee Posing No Significant Risk**

Dear Ms. Vela:

The National Coffee Association ("NCA") appreciates the opportunity to submit comments regarding the Office of Environmental Health Hazard Assessment's Proposed Adoption of New Section Under Article 7 No Significant Risk Levels, Section 25704 Exposures to Listed Chemicals in Coffee Posing No Significant Risk, dated March 15, 2019. NCA strongly supports the original language proposed by OEHHA on June 15, 2018 and hereby incorporates by reference its prior comments dated August 30, 2018, which apply with even greater force to the modified language proposed by OEHHA on March 15, 2019. NCA believes that the proposed language – whether in its original form or its modified form – is supported by the full weight of both scientific evidence and the law.

As discussed below, the modified proposal, like the original proposal, is well within OEHHA's statutory authority and furthers the purposes of Proposition 65, as well as the public health, by codifying a widely recognized scientific fact and by avoiding misleading and unnecessary warnings for this popular and beneficial product. The original proposal is based on the broad scientific consensus that any and all carcinogens in coffee, whether known or unknown, and whether or not currently listed under Proposition 65, do not pose a significant risk of cancer. The modified proposal is limited to carcinogens that are currently listed under Proposition 65 and is therefore narrower in scope than the original proposal. Although the subsequent listing of any other carcinogens that are formed in the process of roasting or brewing coffee would not alter the scientific consensus and OEHHA's determination regarding coffee's health effects, NCA nevertheless supports the modified proposal and requests that OEHHA adopt it promptly and without further modification.

NCA provides the following comments to detail its position that the proposed regulation is both authorized and necessary, even though it believes that the proposed limitation to currently listed carcinogens is unwarranted.

The Proposed Regulation Is Based On More Than Sufficient Scientific Evidence And Is Well Within OEHHA's Legal Authority.

The proposed regulation merely codifies a scientific fact, now recognized by OEHHA and the larger scientific community: there is no significant risk of cancer from exposures to all carcinogens in coffee that are created by and inherent in the processes of roasting coffee beans or brewing coffee.

Significantly, OEHHA's proposal is based on extensive scientific data and analysis from the International Agency for Research on Cancer ("IARC"), which is one of the authoritative bodies for the identification of listed chemicals under Proposition 65. 27 Cal. Code Regs. § 25306(m)(1). Indeed, IARC is one of the few scientific bodies on which Proposition 65 confers the unfettered authority to list a carcinogen. *Id.* § 25904(b); Health & Safety Code § 25249.8(a); *Monsanto v. OEHHA*, 22 Cal. App. 5th 534 (2018).

After reviewing more than a thousand studies of coffee and cancer – *in vitro*, animal, and human – IARC concluded that there is insufficient evidence to classify coffee as carcinogenic and that coffee consumption is associated with a reduced risk of certain cancers. IARC's determination applies to *all* carcinogens that have ever been present in coffee and are created by roasting or brewing, regardless of whether those carcinogens are known or unknown, listed or unlisted. OEHHA's recognition, by this regulation, of the scientific consensus that there is no significant risk of cancer from exposure to currently-listed chemicals in coffee that are created by roasting or brewing is therefore based on scientific evidence that is more than sufficient.

OEHHA Has The Authority To Adopt Regulations That Define "No Significant Risk" And Has Repeatedly Done So For Almost Three Decades.

OEHHA is authorized to "adopt and modify regulations . . . as necessary to conform with and implement [the statute] and to further its purposes." Health & Safety Code § 25249.12; *id.* § 59012 ("The office may adopt and enforce rules and regulations for the execution of its duties."). In turn, the fundamental purpose of Proposition 65 is to provide "clear and reasonable" warnings to the public about exposures that present a significant risk of cancer or reproductive harm. *See* Proposition 65, § 1 ("The people . . . declare their rights: . . . To be informed about exposures to chemicals that cause cancer, birth defects, or other reproductive harm."). Accordingly, the statute's warning requirement expressly does not apply to exposures that "pose[] no significant risk" of cancer. Health & Safety Code § 25249.10(c).

Thus, regulations that avoid cancer warnings for exposures that the best available scientific evidence tells us do not pose a significant risk of cancer are reasonably necessary to effectuate the statute's purpose and come within OEHHA's authority to adopt regulations necessary to implement the statute and further its purposes.

Indeed, over almost 30 years, OEHHA has adopted hundreds of regulatory "safe harbor" levels for individual chemicals. When it adopted the first large set in 1992, OEHHA explained this process of adopting such safe harbor regulations – as well as its necessity and its benefits for both the regulated community and enforcers of Proposition 65 – in detail:

> For chemicals known to the State to cause cancer, the Act exempts discharges, releases and exposures which, making certain assumptions, pose no significant risk. The Act specifies that any claim of exemption under Health and Safety Code Section 25249.10, subsection (c), must be based upon evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for the listing of the chemical. However, the Act does not further clarify when a chemical risk is not significant, nor specify levels of chemical exposures posing no significant risk. Existing regulations describe methods for calculating levels which pose no significant risk, and provide specific levels.
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> The purpose of this regulation is to provide "safe harbor" no significant risk levels for an additional 140 chemicals, below which the Act does not apply. These levels will allow persons to determine whether a discharge, release or exposure involving these chemicals is exempt from the provisions of the Act.
>
> Although existing regulations describe principles and assumptions for conducting risk assessments to calculate the no significant risk levels, *most businesses subject to the Act do not have the resources to perform these assessments. Yet each business with ten or more employees needs the ability to determine whether its activities or products are subject to the prohibitions of the Act.* In the absence of a regulatory level, some businesses subject to the Act – as well as persons seeking to enforce violations of the Act – may not have a way of determining compliance, without investing their own resources to conduct a risk assessment.
>
> *The adoption of regulatory levels facilitates compliance with the Act by providing the regulated community with defined boundaries of what would be considered exempt.* In the absence of regulatory levels, businesses without the resources to conduct dose-response calculations of cancer potency are often unable to avail themselves of the statutory exemptions from the warning requirement or the discharge prohibition. Enforcers of the Act, such as the Attorney General and certain district attorneys, have stated that adoption of a specific regulatory level enables them to identify potential violations and initiate action to prosecute such violations.

Final Statement of Reasons for 22 Cal. Code Regs. § 12705 at 3 (Sept. 1992) (emphases added).

In sum, since 1992, OEHHA has properly implemented the statute and exercised its authority to adopt regulations under the Administrative Procedure Act that specify safe harbor no significant risk levels for hundreds of carcinogens. *See* 27 Cal. Code Regs. § 25705. Furthermore, the courts have recognized that making the scientific distinction between exposures that require a warning and those that do not falls within OEHHA's authority and core expertise. *Mateel Envtl. Justice Found. v. OEHHA*, 24 Cal. App. 5th 220, 229 (2018). That is what OEHHA proposes to do with this regulation.

OEHHA Has The Authority To Adopt Regulations That Provide Broad Categorical Exemptions So Long As The Regulation Is Consistent With The Statutory Standards for Determining No Significant Risk.

OEHHA also has the statutory authority to adopt regulations like this one that apply to listed chemicals that are not intentionally added to food. In *Nicolle-Wagner v. Deukmejian*, 230 Cal. App. 3d 652 (1991), the Court of Appeal upheld a regulation that exempted naturally occurring chemicals in food from Proposition 65's warning requirement.

Similarly, OEHHA's predecessor exercised its authority decades ago to adopt regulations that provide less stringent standards for (1) exposures to carcinogens in food that are formed as a result of cooking food; (2) carcinogens created by chlorine disinfection; and (3) exposures to chemicals in drinking water received from a public source, among others. 27 Cal. Code Regs. §§ 25703(b), 25502. Notably, none of these provisions was limited to chemicals that were listed when the regulations were adopted. The proposed regulation is thus well within the authority that OEHHA has exercised in the past and that has been endorsed by the courts.

In *Nicolle-Wagner*, the Court of Appeal analyzed the authority of OEHHA's predecessor, the Health and Welfare Agency, to exempt exposures to any and all listed chemicals that occurred naturally in food – a much broader exemption than the current proposal regarding chemicals created in the preparation of a single food product. 27 Cal. Code Regs. § 25501. The plaintiff argued that the text of the statute did not distinguish between chemicals that occurred naturally in a product and chemicals that were present in a product as a result of human activity. *Nicolle-Wagner*, 230 Cal. App. 3d at 657, 659. Indeed, the statute did not expressly empower the agency to promulgate exemptions of any kind. Nevertheless, the Court of Appeal concluded that the agency's regulation interpreted the statutory term, "exposure," which was not specifically defined in the statute, *id.* at 658, and upheld the validity of the regulation because it was consistent with the statute and reasonably necessary to effectuate its purpose. *Id.* at 661-62. Notably, neither the regulatory exemption at issue in that case, nor the Court of Appeal's decision, limited its application to just those chemicals on the list when the regulation was adopted. Instead, it applies to all Proposition 65 chemicals that are naturally occurring in food regardless of when those chemicals are added to the list.

OEHHA's proposed regulation for listed carcinogens created in the process of roasting or brewing coffee interprets the term "no significant risk," which – like the statutory term "exposure" at issue in *Nicolle-Wagner* – is also not specifically defined in the statute. Proposition 65 simply requires that the determination of "no significant risk" must be based on "evidence and standards of comparable scientific validity to the evidence and standards which form the scientific basis for the listing of such chemical." Health & Safety Code § 25249.10(c).

OEHHA Need Not Employ a Quantitative Analysis in Determining That Exposure to Coffee Does Not Cause a Significant Risk.

Although OEHHA routinely issues regulations interpreting "no significant risk" when it adopts numerical safe harbor thresholds for specific chemicals (*see, e.g.*, 27 Cal. Code Regs. § 25705), there is no requirement in the statute that OEHHA employ a *quantitative* risk assessment to determine whether a given level of exposure presents no significant risk. Nor is OEHHA

required to direct its regulations regarding no significant risk to specific listed chemicals, since the statute concerns risks from *exposures*, e.g., drinking coffee, rather than abstract properties of individual chemicals considered in isolation.

In fact, the Final Statement of Reasons published when the regulations implementing this exemption were adopted on June 1, 1989, states that evidence that an entire medium (like coffee) poses no significant risk of cancer may be sufficient to establish that exposure to the chemicals in that medium are also exempt:

> There may be several ways to determine whether exposure to a chemical poses a significant risk. A history of exposure to a chemical through a particular medium without any significant adverse consequence may provide a basis for determining that there is no significant risk.

Final Statement of Reasons for Sections 12701-12821 [renumbered to 25701-25821] ("FSOR 12701") at 4. That is precisely the case with coffee.

> *OEHHA's Proposed Regulation Complies With The Statutory Standard For Determining No Significant Risk.*

Under Section 25249.10(c), OEHHA must merely ensure that a no-significant-risk determination is based on evidence and standards of "comparable scientific validity" to the basis for listing chemicals as carcinogens or reproductive toxicants. Health & Safety Code § 25249.10(c). This means that the showing "must be based upon data and protocols which are scientifically valid according to generally accepted principles, sharing a comparable degree of scientific acceptance to the data and protocols which supported the listing of the chemical." FSOR 12701 at 5.

In this case, the listing of acrylamide, one of the carcinogens inherently produced by the coffee roasting process, was based on a finding by IARC that in turn was based on just one cited long-term rat study and one *in vitro* study. *See* https://oehha.ca.gov/media/downloads/crnr/acrylbrief.pdf, at Tab 3 (last accessed Apr. 2, 2019).

IARC is not only one of the authoritative bodies upon which a listing may be based, Health & Safety Code § 25249.8(a), but its work is, in large part, the basis for OEHHA's proposed determination of no significant risk. OEHHA has independently reviewed IARC's exhaustive scientific analysis of over a thousand human, animal, and *in vitro* studies and its conclusion that despite decades of epidemiological and toxicological research, there is inadequate evidence for the carcinogenicity of coffee (and, necessarily, the compounds created by roasting and brewing coffee). Accordingly, OEHHA's interpretation of "no significant risk" in this instance was properly based on "evidence and standards of comparable scientific validity to the evidence and standards" for listing. The proposed coffee regulation is therefore fully consistent and not in conflict with the text of the statute.

Significantly, this proposed regulation, particularly as modified, is much narrower than the naturally-occurring exemption that was upheld in *Nicolle-Wagner*. It covers only one of the tens of thousands of foods and beverages covered by the naturally-occurring exemption. It applies only to chemicals created in the process of roasting or brewing coffee, as opposed to

chemicals from any natural source. It applies only to carcinogens and not to reproductive toxicants. And it is based on over a thousand studies, whose collective result – that drinking coffee poses no significant risk of cancer – was determined by a scientific body that is not only designated as authoritative by the panel of qualified experts appointed by the Governor but also is one of the few such bodies on which Proposition 65 confers the direct authority to list a carcinogen.

The Proposed Regulation Does Not Violate The Trial Court's Decision Or Settlement Agreement In AFL-CIO V. Deukmejian.

Contrary to assertions raised by another commenter during the initial comment period, the unpublished 1990 trial court decision and subsequent settlement agreement in *AFL-CIO v. Deukmejian* (Sac. Cty. Super. Ct. No. 502541) (March 1, 1990) ("*Duke II"*) do not bar OEHHA from adopting the proposed regulation.

The 1992 *Duke II* Settlement Agreement requires that the term "no significant risk" must be based upon specific numeric standards for the chemical for any food, drug, cosmetic or medical device product where the regulation employs standards derived from existing state or federal law. Because the proposed regulation here does not rely on "standards derived from existing state or federal law," the Settlement Agreement has no bearing on OEHHA's ability to adopt a no significant risk level for coffee.

The *Duke II* settlement agreement must be interpreted strictly in accordance with its terms because contractual language effecting a surrender of governmental authority must be

> "rigidly scrutinized, and *never permitted to extend either in scope or duration beyond what the terms of the concession clearly required.*" There must have been a deliberate intention clearly manifested on the part of the State to grant what is claimed. Such purpose cannot be inferred from equivocal language.

Newton v. Mahoning Cty. Comm'rs., 100 U.S. 548, 561 (1880) (emphasis added) (quoting *Tucker v. Ferguson*, 22 Wall. 527 (1875)). As NCA explained in its August 30, 2018 comments, the proposed regulation is based on OEHHA's scientific determination that chemicals in coffee do not cause cancer and not on "standards derived from existing state or federal law." The *Duke II* Settlement Agreement therefore does not apply.

Like the Settlement Agreement, the Superior Court's 29 year old, unpublished, and non-precedential decision is also inapplicable to the proposed regulation. The regulation at issue in *Duke II* and this one trial judge's reasoning are readily distinguishable from the instant proposal concerning chemicals in coffee.

- First, the regulation at issue in *Duke II* created a broad categorical exemption for exposures to any Proposition 65-listed chemical in any food, drug, cosmetic or medical device if it was "in compliance with all applicable federal and California safety standards." *See* FSOR 12701 at 44 (discussing Cal. Code Regs., tit. 22, former § 12713). It therefore encompassed thousands of different products, each with its own unique composition, concentrations of chemicals, routes of exposure, and potential risks.

Unlike that regulation, which was criticized by the Superior Court judge for "creat[ing] a categorical exemption from the warning law for selected industries *without specific regard to the chemicals involved*," *Duke II* at 1 (emphasis added), the proposed regulation at issue here is limited to specific chemicals – namely, those created by and inherent in the processes of roasting coffee beans or brewing coffee" *and* that are "listed on or before March 15, 2019 as known to the state to cause cancer." Furthermore, it is based on robust scientific evidence concerning the lack of carcinogenicity of the specific exposures that occur when the specific product at issue is consumed. This is certainly not a blanket, categorical exemption. Having made the scientific determination that consumption of coffee does not cause cancer, OEHHA tailored its proposed regulation with regard to the specific chemicals and single product at issue.

- Second, the Superior Court's short summary judgment ruling found the regulation in *Duke II* problematic because it defined the term "'no significant risk' *solely in terms of approval by other government agencies*." *Duke II* at 1 (emphasis added). This meant that if a product complied with another government agency's requirements, that product was automatically deemed to pose "no significant risk" of cancer under Proposition 65, regardless of whether it satisfied the standards under Proposition 65. By contrast, OEHHA's determination that chemicals in coffee pose no significant risk of cancer is based not on deference to other government agencies, but on OEHHA's own independent, scientific evaluation of extensive research concerning the inadequate evidence for the carcinogenicity of drinking coffee.

- Third, the Superior Court in *Duke II* ruled that the categorical exemption at issue had the practical effect of extending the grace period for the effective date of the listing of any chemical indefinitely without requiring the lead agency to make any scientific determinations concerning the cancer risk posed by those chemicals to consumers, which was inconsistent with Proposition 65. Here, the proposed regulation, as modified, is limited to only those chemicals in coffee that are listed as of March 15, 2019 as known to the state to cause cancer; it does not extend any grace period; and it is limited solely to substances that OEHHA has already studied and determined cause no significant risk of cancer in accordance with the statutory standards in section 25249.10(c).

Accordingly, neither the *Duke II* decision, which dealt with an entirely separate regulation, nor the *Duke II* Settlement Agreement, which precludes an entirely different form of regulation, restricts OEHHA's authority to adopt the proposed regulation.

The Proposed Regulation Is Necessary To Achieve The Purposes Of Proposition 65: To Protect The Public Health And To Prevent Over Warning.

NCA urges OEHHA to expedite approval of the proposed regulation, which is necessary because consumers are currently subjected to misleading cancer warnings for coffee, a household staple that millions of Californians consume. Until the proposed regulation is adopted and the uncertainty surrounding Proposition 65 warning requirements for chemicals in

coffee is resolved, many businesses will continue to provide cancer warnings or will begin doing so in order to reduce their potential liability for enormous penalties.

For example, in the Proposition 65 enforcement actions brought by private plaintiff Council for Education and Research on Toxics ("CERT"), CERT seeks a statutory penalty of $2,500 for *each cup* of coffee that the defendants sold or served in California since 2009. This penalty could, if calculated as CERT urges, be financially devastating to any business. A number of the defendants in those cases – including Starbucks, Peets, Dunkin' and Ralph's grocery stores – are thus providing cancer warnings for coffee as a precautionary measure. Many other businesses that sell or serve coffee are following suit to avoid facing similar litigation.

Although this is a rational response to the threat of massive civil penalties, the scientific evidence shows that chemicals in coffee pose no significant risk of cancer. These unnecessary warnings do not further the purpose of Proposition 65 for two reasons:

First, not only will these current and future warnings distract consumers from other, more important warnings, they will prompt consumers to disregard all warnings. Excessive, multitudinous warnings "may be ignored by users and consumers and may diminish the significance of warnings about [other] risks" and "could reduce the efficacy of warnings generally." Restatement (Third) of Torts: Products Liability § 2 cmt. j (2018). California courts have repeatedly recognized these concerns:

> "unnecessary warnings . . . could distract the public from other important warnings on consumer products." Since one of the principal purposes of [Proposition 65] is to provide "clear and reasonable warning" of exposure to carcinogens and reproductive toxins, such warnings would be diluted to the point of meaninglessness if they were to be found on most or all food products.

Nicolle-Wagner, 230 Cal. App. 3d at 661 (quoting the Final Statement of Reasons for the "naturally occurring" regulation now found at 27 Cal. Code Regs. § 25501)).

Second, these warnings mislead the public about the health effects of coffee. In light of such warnings, some consumers may reduce or eliminate their coffee consumption. The California Supreme Court agreed that unnecessary Proposition 65 warnings for remote risks could have the effect of discouraging consumers from using a beneficial product. *Dowhal v. Smithkline Beecham Consumer Healthcare*, 32 Cal. 4th 910, 934 (2004) ("The mere existence of the risk, however, is not necessarily enough to justify a warning; the risk of harm may be so remote that it is outweighed by the greater risk that a warning will scare consumers into foregoing use of a product that in most cases will be to their benefit."). The Supreme Court's view on over-warning is consistent with the concern expressed by the Court of Appeal in *Nicolle-Wagner* (at 661), which understood that Proposition 65 warnings on foods that people have safely consumed for thousands of years could reduce the consumption of healthy, natural foods in the American food supply. It found that such unnecessary warnings are counterproductive and inconsistent with the "clear and reasonable warning" requirement in section 25249.6 of Proposition 65. OEHHA's proposed regulation for coffee responds to the same concerns. *See*

Initial Statement of Reasons for Title 27, California Code Of Regulations, Adoption Of New Section 25704 ("ISOR") at 14.

Here, the voluminous scientific evidence on which the regulation at issue is based establishes that drinking coffee is safe, does not cause cancer, and even *reduces* the risk of several major cancer types. *See* ISOR at 6. Thus, like the exemption for naturally occurring chemicals in food, the proposed coffee regulation "will further the statutory purpose [by] safeguarding the effectiveness of warnings which are given, and [by] removing from regulatory scrutiny those substances which pose only an 'insignificant risk' of cancer or birth defects, within the meaning of the statute." *Nicolle-Wagner*, 230 Cal. App. 3d at 661. And, as OEHHA explained in its Initial Statement of Reasons, the scientific record in this matter presents the precise overwarning dilemma expressed by the Supreme Court in *Dowhal*, because cancer warnings for coffee would have the effect of discouraging consumers from using a product that is associated with significant health benefits, including a reduction in risk of liver and endometrial cancers. *See* ISOR at 5.

The continued promulgation of inaccurate and misleading cancer warnings, induced by threat of massive liability in "bounty hunter" enforcement actions, harms consumers, negatively affects public health, and undermines consumer confidence in all warnings as well as the scientific expertise of California's regulators. Accordingly, promptly adopting the proposed regulation – whether in its original form or its modified form – is consistent with the public interest, with the purposes of Proposition 65, and with public health.

There Is Nothing In The Law Or Scientific Record To Support A Finding That The Regulation Should Not Apply To All Chemicals In Coffee, Whether Currently Listed Or Listed In The Future.

While NCA supports OEHHA's proposed regulation as modified and urges its adoption, NCA also urges OEHHA to reconsider whether the modification is necessary or appropriate. The proposed modification unnecessarily limits the regulation's application to those chemicals on the Proposition 65 list as of March 15, 2019. Nothing in the law or the scientific record requires such a limitation. As noted, the Court of Appeal has approved a much broad regulatory exemption that applies to all Proposition 65 chemicals, whether currently listed or listed in the future. *Nicolle-Wagner*, 230 Cal. App. 3d at 661. Neither the naturally occurring exemption nor the Court's approval of it contains any temporal restrictions that would limit its application to chemicals on the list in 1991.

Nor does *Duke II* require this result. The regulation at issue in that case was an emergency measure intended as a bridge between the addition of a chemical to the list and the time that the Agency adopted a "safe harbor" threshold for that chemical. *See* Final Statement of Reasons for the Repeal of Section 12713 at 3 ("[T]he regulation was intended to provide an 'interim' standard pending the establishment of no significant risk levels for 50 chemicals."). In other words, it allowed an alternative means of proving that a business's exposures posed no significant risk by relying on federal and state safety standards as a temporary substitute for a specific risk analysis.

Here, by contrast, OEHHA has made a specific scientific finding that *exposures to all carcinogens in coffee* pose no significant risk of cancer. This conclusion is based, not on any state or federal administrative standards, but on OEHHA's scientific judgment about the robust body of evidence concerning the risks and benefits of consuming the medium of coffee. Logically, OEHHA's finding applies to all chemicals as they are consumed *in that medium*, regardless of whether those chemicals are currently on the Proposition 65 list. In other words, OEHHA has determined that exposure to chemicals *when the exposure occurs as a result of consuming such chemicals within the medium of coffee* do not now and never have posed a significant risk of cancer.

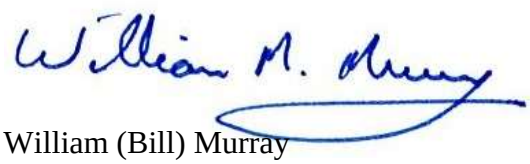
There is no reason to believe that this determination would change *as to exposures arising from the consumption of coffee* if one of the chemicals present in coffee as a result of roasting or brewing coffee is added to the Proposition 65 list in the future. Indeed, the current scientific evidence will continue to support OEHHA's original determination as to any carcinogens that may be discovered in coffee in the future. The future listing of any such carcinogens under Proposition 65 will therefore require OEHHA, in order to remain true to the science, to amend the specific coffee regulation to cover such newly listed carcinogens. That process is inefficient at best.

OEHHA's modification of the regulation to limit it to currently listed chemicals is unnecessary as a matter of science, law, and logic. NCA nevertheless supports adoption of the regulation, as modified, in order to address the pressing issues of overwarning and public health presented by both pending and future possible Proposition 65 litigation against NCA members and others who sell or serve coffee in California.

* * *

Thank you for considering our comments. We urge OEHHA to adopt the proposed regulation as soon as practicable.

Sincerely,



William (Bill) Murray
President & CEO
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